

**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Petition for Termination of Probation By:

JOAQUIN ANTONIO PEREZ,

Petitioner.

OAH No. 2011020273

**DECISION**

This matter was heard by a quorum of the Board of Vocational Nursing and Psychiatric Technicians (Board) on February 24, 2011, in Los Angeles. Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, presided. The record was closed and the matter was submitted for decision, following which the Board met in an executive session and decided the matter after the hearing.

Joaquin Antonio Perez (Petitioner) appeared and represented himself.

Geoffrey Ward, Deputy Attorney General, represented the Attorney General of the State of California pursuant to Business and Professions Code section 2878.7.

**FACTUAL FINDINGS**

1. On April 19, 1995, the Board issued Psychiatric Technician License No. PT 29435 to Petitioner.

2A. The Board adopted a Stipulated Settlement and Disciplinary Order (Board Case No. PT-2006-115), in which Petitioner's license was revoked, the revocation was stayed, and the license was placed on probation for three years, under various terms, effective September 27, 2008. Petitioner was ordered to pay costs in the amount of \$1,381.

2B. In the stipulation, Petitioner admitted to having committed the following acts of unprofessional conduct and dishonesty. In 2003, Petitioner was convicted of reckless driving without injury, a misdemeanor crime. He failed to disclose that conviction on his 2004 renewal application to the Board. In 2006, he was convicted of driving under the influence of alcohol and of driving with a blood alcohol content of .08 or more, both misdemeanors.

3. The petition for termination of probation was filed with the Board on October 21, 2010; it is timely and meets all jurisdictional requirements.

4. For the most part, Petitioner has remained in compliance with the terms of his probation, including his having fully paid the costs owed to the Board. There were a few instances when quarterly written reports were submitted late, but Petitioner provided an adequate explanation for why that happened, mainly relating to problems getting his supervisors to execute and send their portions. There was also an inconsequential failure to timely complete some of the required educational coursework, an explanation for which had been previously accepted by Board staff.

5. There is no evidence that Petitioner has committed any subsequent acts which would be violations of the pertinent laws related to the Board's licensees or which would be considered grounds for denial of an application for a license.

6. Petitioner successfully completed his probations from the two criminal cases discussed above.

7. Petitioner's misconduct stemmed, to a large degree, from his addiction to alcohol. He has remained sober since January 29, 2006. He established a sincere commitment to maintaining his sobriety, as demonstrated by his completing a chemical dependency program, his continuing to regularly attend group meetings, and his passing all random drug tests. A few positive character reference letters about Petitioner were also submitted, which attest to Petitioner's ongoing commitment to sobriety.

8. Petitioner provided evidence of completion of a satisfactory amount of continuing education coursework.

9. Petitioner established an exemplary track record of employment as a psychiatric technician with the State. He has received nothing but excellent evaluations by his supervisors.

10. Petitioner is currently enrolled in a registered nursing program. His main reason for petitioning for the early termination of his probation, due to expire in September of 2011, is that he would prefer to apply toward school the time and money he currently invests in complying with the terms of probation. The Board commends Petitioner for his efforts to improve himself.

11. The Board was impressed by Petitioner's candor during the hearing concerning the few instances when his quarterly reports were not received on time. Such candor is indicative of a satisfactory state of rehabilitation.

### LEGAL CONCLUSIONS

1. *Burden of Proof.* The burden in a petition for reduction of administrative discipline rests with Petitioner. (*Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398.) The standard of proof is clear and convincing evidence to a reasonable certainty. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084.)

2. *Standard of Review.* Business and Professions Code section 2878.7 provides the Board with authority to terminate probation for reasons the Board deems sufficient. In doing so, the Board may impose reasonable conditions. (Bus. & Prof. Code, § 2878.7, subd. (d).)

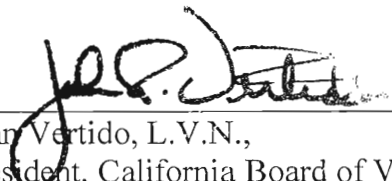
3. *Disposition.* In this case, Petitioner met his burden of establishing clearly and convincingly that cause exists to terminate his probation pursuant to Business and Professions Code section 2878.7. Petitioner demonstrated that he has adequately complied with the terms of his probation and that he has achieved a satisfactory level of rehabilitation. His reason for petitioning for termination of probation is reasonable. No public safety purpose will be facilitated by requiring him to continue his probation a few more months under these circumstances. (Factual Findings 1-11.)

#### ORDER

The petition is granted. The probation of Joaquin Antonio Perez is terminated. His license shall be fully restored.

This Decision shall be effective May 20, 2011.

Dated: May 5, 2011

  
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John Vertido, L.V.N.,  
President, California Board of Vocational  
Nursing and Psychiatric Technicians